

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 109th Congress¹**

[Date approved: August 10, 2006]²

Bill No. and sponsor: S. 2760 (Mrs. Diane Feinstein of California, Mr. Jon Kyl of Arizona and Mr. John E. Sununu of New Hampshire)

Proponent name, location: None

Other bills on product (109th Congress only): S. 2763, S. 2778, H.R. 5170

Nature of bill: Permanently eliminates the additional duty on ethanol and ethanol mixtures for fuel use.

Retroactive effect: None

Article description (including appropriate HTS classification(s)):

Ethyl alcohol (provided for in subheadings 2207.10.60 and 2207.20) or any mixture containing such ethyl alcohol (provided for in heading 2710 or 3824) if such ethyl alcohol or mixture is to be used as a fuel or in producing a mixture of gasoline and alcohol, a mixture of a special fuel and alcohol, or any other mixture to be used as fuel (including motor fuel provided for in subheading 2710.11.15, 2710.19.15 or 2710.19.21), or is suitable for any such uses.

Check one: Same as in the HTS heading in the bill as introduced.
 Different from the HTS heading in the bill (see Technical comments).

Product information, including uses/applications and source(s) of imports:

Ethyl alcohol, commonly referred to as ethanol, is an alcohol that mainly is produced from fermented sugars or converted starches from agricultural feedstocks, mainly corn and sugarcane. Ethanol can be used in beverages, industrial applications, and as a fuel. This bill pertains to ethanol destined for use as fuel. The United States and Brazil are the leading global fuel ethanol producers, each producing about 4 billion gallons, or about 90 percent of the total quantity in 2005.³ U.S. imports of fuel ethanol totaled approximately 135 million gallons, valued at \$231 million, in 2005. The principal sources of imports in 2005 were Jamaica (27% by quantity), Costa Rica (25%), Brazil (23%), and El Salvador (18%). Imports from beneficiary countries of the Caribbean Basin Economic Recovery Act (CBERA) may enter free of duty under various tariff provisions, including a quota whereby imported feedstock may be used.⁴ Under this provision, CBERA countries currently import hydrous ethanol, mainly from Brazil, dehydrate it, and export it to the United States. A quantity up to 7 percent of U.S. consumption may enter free of duty annually under this provision using no CBERA-origin feedstock. This quota has never been filled and the fill rate amounted to 43 percent in 2005.⁵ Costa Rica and El Salvador have been reserved part of the

¹ Industry analyst preparing report: Doug Newman (202-205-3328); Tariff Affairs contact: Dan Shepherdson (202-205-2598).

² Access to an electronic copy of this memorandum is available at http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm.

³ Data from F.O. Licht.

⁴ Section 423 of the Tax Reform Act of 1986 (Pub. L. 99-514), as amended, codified at 19 U.S.C. 2703 Note.

⁵ Calculated based on data from the U.S. Department of Commerce and the U.S. Customs and Border Protection Agency.

quota under the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA).⁶

Brazil has become the leading source of U.S. imports of fuel ethanol, accounting for 57 percent of the quantity and 58 percent of the value the total during January-April 2006. Although imports from Brazil are dutiable, the U.S. Customs and Border Protection Service has indicated that a substantial portion of such imports has received duty drawback.⁷ Importers may claim drawback for jet fuel that is used by commercial airliners.

Estimated effect on customs revenue:

HTS heading: 9901.00.50					
	2006	2007	2008	2009	2010
Col. 1-General rate of duty (AVE) ^{1/}	24.7%	24.7%	2.0%	2.0%	2.0%
Estimated value <i>dutiable</i> imports	\$300,000,000	\$150,000,000	\$100,000,000	\$50,000,000	\$25,000,000
Customs revenue loss	\$74,100,000	\$27,787,500	\$0	\$0	\$0

^{1/} The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available. The additional duty under HTS heading 9901.00.50 expires on October 1, 2007. Thereafter, the estimated, trade-weighted rate of duty for fuel ethanol is 2.0 percent ad valorem.

Source of estimated dutiable import data: Commission estimates.

Contacts with domestic firms/organizations (including the proponent):

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
Office of Senator Feinstein Rachel Miller, 202-224-2745	05/15/2006	No	No	No
Alcochem, Inc. Freddy Paz, 281-531-9575	06/08/2006	No	No	No
American Petroleum Institute Corey Coffin, 202-682-8209	06/14/2006	No	No	No
BP Products North America Susan Rogers, 202-457-6608	06/21/2006	No	No	No
Cargill, Inc. Martin Muenzmaier, 202-530-8160	06/13/2006	No	No	No

⁶ Central America-Dominican Republic-United States Free Trade Agreement, Annex 3.3, U.S. note 12, available at http://www.ustr.gov/assets/Trade_Agreements/Bilateral/CAFTA/CAFTA-DR_Final_Texts/asset_upload_file971_3958.pdf.

⁷ Section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313). Unofficial data were provided in response to a recent query.

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
Caribbean Basin Ethanol Producers Group George Fitch, 540- 347-5283	06/16/2006	No	Yes	Yes
Hogan & Co. William Anthony Hogan, 203-315-0125	06/15/2006	No	Yes	Yes
National Petroleum Refiners Association Charles Drvena, 202-457-5995	06/23/2006	No	No	No
NIC Holding Corp. Nancy Paloush, 631-753-4252	06/21/2006	No	No	No
Renewable Fuels Association Larry Schaffer, 202-289-3835	05/16/2006	No	No	No
Vitol S.A. Joe Rubbo 713-230-1000	06/21/2006	No	No	No

Technical comments:⁸ None.

⁸ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

109TH CONGRESS
2^D SESSION

S. 2760

To suspend the duty on imports of ethanol, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 8, 2006

Mrs. FEINSTEIN (for herself, Mr. KYL, and Mr. SUNUNU) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To suspend the duty on imports of ethanol, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DUTY FREE TREATMENT FOR IMPORTED ETH-**

4 **ANOL USED FOR FUEL.**

5 (a) IN GENERAL.—Subchapter I of chapter 99 of the
6 Harmonized Tariff Schedule of the United States is
7 amended by striking heading 9901.00.50 and any U.S.
8 note relating to that heading.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this subsection applies to goods entered, or withdrawn

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- 1 from warehouse for consumption, on or after the 15th day
- 2 after the date of the enactment of this Act.

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